

REMARKS

Claims 1-8 are pending in the instant application. Claim 1 is currently amended. WHEREIN, Claims 1-8 remains to be examined. No new matter has been added. No additional claims fee is believed to be due. Applicants reserve the right to prosecute the originally filed claims in the future.

103(a)

Examiner has rejected Claims 1-8 under 35 USC 103(a) as being unpatentable over Bilodeau et al. (US 7,223,738), in view of King et al., and Weber et al. supplemented with Patani. The Examiner has stated that the phenyl ring structure with its bioisosteric theinyl ring structure is considered prima facie obvious.

Applicant has currently amended Claim 1 to remove the bioisosteric theinyl ring structure. Support for this amendment is found in the specification on page 11, line 18 to the end of the page.

Nonstatutory Obviousness-type Double Patenting

Examiner has maintained the rejection of Claims 1-8 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-9 of US Patent No. 7,399,764 in view of Claim 1-2 of US Patent No. 7,223,738. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other for the same rational of finding the described compounds prima facie obvious.

Applicant respectfully disagrees for the reasons stated above and requests allowance of Claims 1-8.

Applicants believe no additional fees are due but the Commissioner is authorized to charge any fees required in connection with this amendment to Merck Deposit Account No. 13-2755. If a telephonic communication with Applicant's representative will aid in the advancement of the prosecution of this application, please telephone the representative indicated below.

Respectfully submitted,

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